

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 524 OF 2021

Sri Prasenjit Ghosh, s/o Late Shyma Sankar Ghosh of
East Bank of Jagannath Dighi, P.S.- R.K. Pur,
P.O.-R.K.Pur, Udaipur, Dist-Gomati Tripura.

Vrs.

- 1. The State of Tripura**, represented by the
Commissioner cum Secretary to the Government of Tripura,
Finance Department, New Capital Complex, PO. Kunjaban,
Agartala, Dist-West Tripura.
- 2. The State of Tripura**, represented by the
Commissioner cum Secretary to the Government of Tripura,
Public Works Department (WR) (R&B),
New Capital Complex, P.O. Kunjaban, Agartala,
Dist-West Tripura.
- 3. The Superintending Engineer**, W.R. Circle No.iii, Udaipur,
P.O. R.K.Pur, Dist. Gomati Tripura.
- 4. The Chief Engineer**,
Public Works Department (R & B),
Kunjaban, P.O. Kunjaban, Dist-West Tripura.
- 5. The Executive Engineer**,
Public Works Department (R & B),
Santirbazar Division, Santirbazar,
P.O. Santir Bazar, Dist-South Tripura.
- 6. The Accountant General (A & E)**, Tripura,
Agartala, West Tripura.

Present:

For the petitioner(s) : Mrs. S. Deb (Gupta), Advocate.

For the respondent(s) : Mr. Bidyut Majumder, Dy.SGI,
Mr. D.C.Saha, Advocate.

HON'BLE MR.JUSTICE ARINDAM LODH

20.09.2023

Judgment & Order (Oral)

Heard Mrs. S. Deb (Gupta), learned counsel appearing for the petitioner. Also heard Mr. D.C. Saha, learned counsel appearing for the State-respondents and Mr. B. Majumder, learned Dy.SGI appearing for the Respondent-Union of India.

By means of filing the present writ petition, the petitioner has prayed for following reliefs:

- (i) *“Issue Rule, calling upon the respondents and each one of them to show cause as to why a writ of certiorari and/or in the nature thereof, shall not be issued, for quashing or setting aside the memo vide No. Pen-2/Sup/TS/PR-252/2017-18/2993-94 dated 21.06.2018 (Annexure-E) where they stated that on scrutiny of service book of Sri Prasanjit Ghosh, Retd. U.D.C.(the petitioner) it is observed that his pay was stepped up with Smti. Arti Das, U.D.C. who belongs to Schedule Caste Category and Sri Prasanjit Ghosh, Retd. U.D.C. (the petitioner) belongs to General/OBC category for which stepping up of pay not permissible due to reservation roster method. The opinion of the finance department is totally illegal and unjustified and contrary to the rules 14(6) of the Tripura State Civil Services (Revised Pay) Rules, 2009 and in the rules nowhere stated that there is any restriction due to reservation roster method and thereby declare the same to be illegal, arbitrary, unreasonable, unconstitutional and as such in violation of Article 14 of the Constitution of India.*
- (ii) *ISSUE RULE, calling upon the respondents and each one of them to show cause as to why a writ of certiorari and/or in the nature thereof, shall not be issued, for mandating/directing the respondents to provide the petitioner the stepped up of higher pay scale with grade pay and other notional benefits in comparison with Arti Das, U.D.Clerk w.e.f. 30.11.2012 as per Rules,2009.*
- (iii) *ISSUE NOTICE upon the Respondents AND call FOR THE RECORDS appertaining to the writ petition.”*

From the communication dated 12.07.2011 and 13.07.2018 it is revealed that Smt. Arati Das and Smt. Prabir Bahadur had been promoted in the higher grade/post earlier than the petitioner by way of operation of reservation roster. So, Smt. Arati Das and Prabir Bahadur had been given the

grade pay prescribed for such promotional post. The petitioner though at a certain point of time was senior to Smt. Arati Das and Prabir Bahadur, but, due to reservation roster these two persons had been promoted earlier than the petitioner from the feeder grade/post. As such, benefit of grade pay prescribed for the said promotional post had not been provided to the petitioner.

It is contended by learned counsel for the petitioner that under notification dated 02.01.2010, some similarly situated persons had been given the benefit of higher pay scale, but the petitioner was not provided with that scale. If this statement of learned counsel is correct, then, in the opinion of this Court, the petitioner could have approached the Court with his grievance immediately after such deprivation of pay scale. But, it is apparent that the petitioner approached before this Court in the year 2019 by filing a writ petition on the similar ground and in that writ petition, the respondents were directed to reconsider the case of the petitioner for stepping up of pay.

After the order passed by learned Single Judge of this Court on 20.02.2020, the matter was taken into consideration by the respondents and under Memorandum dated 20th June, 2020 it was observed that- *‘the pay of Shri Prasenjit Ghosh, UDC(retired) was stepped with smt. Arati Das, UDC, who belongs to SC category and petitioner belongs to General category for which stepping-up of pay not possible due to reservation roster method’*.

It was further observed that –*“whereas Shri Ghosh after cancellation of his stepping up of pay with Smt. Arati Das, UDC by the Accountat General (A & E), Tripura, had submitted application dated 03.01.2019 to the Chief Engineer, PWD (R &B), Tripura, Agartala through proper channel inter alia requesting to step up of his pay with his general category junior Smt. Niva Majumder, UDC(retired) and whereas, the department after necessary scrutiny of the matter, had referred the same to the Finance Department, Government of Tripura vide U.O. No.287 dated 16.03.2019 requesting them to offer their valuable opinion in regard to step up of petitioner Grade Pay to Rs.2400/- from Rs.2100/- with his junior Smt. Niva Majumder, UDC(retired) w.e.f. 30.11.2012”* and

“whereas the Finance Department vide U.O. No. Nil, dated 29.07.2019 had returned the proposal of the Department with the request to re-submit the proposal along with Service Book of Shri Ghosh and smt. Niva Majumder in original with a statement on basic pay arranged year-wise in tabular format starting from their date of joining as well as mentioning the dates on which financial upgradation had been attained by them individually.”

Under Memorandum dated 20th June, 2020, it was ultimately found that the Finance Department vide U.O. No.726 dated 21.03.2020 & U.O. No. 38 dated 02.05.2020 has regretted the proposal of the department for stepping up of pay of the petitioner, stating that the principles of stepping-up of pay is allowed in those cases where the senior employee draws less basic pay than the junior employee and in the instant case, the petitioner was being senior to Smt. Niva Majumder as on 01.07.2016 his basic pay was fixed at Rs.22740/- as compared to the basic pay of Smt. Majumder, which was Rs.19320/-. The Finance Department in this connection has quoted the Rule under which the petitioner is not entitled to get stepping up of pay and same is stated here-in-below:

“As per definition at Rule 3(h) of ROP 2009, ‘basic pay in the revised pay structure’ means the pay drawn in the prescribed pay band plus applicable grade pay but does not include any other type of pay. Therefore, pay as mentioned in Rule 14(6A) is actually the basic pay. Basic pay is sum of two components viz. pay in pay band and Grade Pay. There is no scope to dissect the basic pay into two separate entities to examine the scope of stepping-up of pay for making department proposals eligible for stepping-up of pay. Stepping-up of pay under ROP Rules actually means stepping-up of basic pay. In eligible cases where the basic pay of senior is lower than the junior, provisions of stepping-up of pay are invoked either by enhancing the pay in pay band or by raising the Grade Pay. But if the senior employee is already drawing of higher basic pay than his junior, then the question of invoking the provisions of stepping-up of pay do not arise.”

Having observed thus, the respondents rejected the claim of the petitioner to step up his pay scale as those of Smt. Arati Das or Smt. Niva Majumder as well as Shri Prabir Bahadur. I find no error in the decision of the Finance Department, Govt. of Tripura. Accordingly, the instant writ petition stands dismissed.

JUDGE

SANJAY GHOSH

Digitally signed by SANJAY GHOSH
Date: 2023.09.22 17:14:26 +05'30'

